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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,864

09/05/2003

Luc Laloy

1418-137

8101

24106

7590

06/27/2006

EGBERT LAW OFFICES  
412 MAIN STREET, 7TH FLOOR  
HOUSTON, TX 77002

EXAMINER

HANEY, RICHAE LEE

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/656,864

Applicant(s)

LALOY ET AL.

Examiner

Richale L. Haney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/30/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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***Response to Amendment***

Applicant's request for continued examination of the claims filed on 3/30/2006 have been received and reviewed. Applicant has cancelled claims 1 – 16 and added new claims 17 - 21.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 17 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafowitz et al. (US 3,188,654) in view of Park (US 6,016,572). The device of Rafowitz discloses a semi-spherical headdress formed from multiple pieces having a forwardly extending visor (18) comprising outer fabric layers and an inner stiffening layer (Column 2, lines 70-71), the headdress further comprising a cut out over at least a portion of a periphery thereof (Fig. 2), and an elastic band (30) cooperative with the cut out so that its visible at the cut out (Fig. 2), the cut out is defined by a selvedge line extending substantially parallel to the lower rim, the cut out having a maximum height dimension between the selvedge line and the lower rim and the elastic band having a width dimension approximately equal to the maximum height dimension (Figs. 2, 3, 4). The elastic band is sewn at the upper end to the headdress selvedge line, the elastic band having a lower rim sewn to a band (29) that extends around the periphery of the

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headdress to the front of the crown. The device of Rafowitz et al. substantially discloses the claimed invention but is lacking a band that is made from elastic material. The device of Park discloses a semi-spherical headdress formed from multiple fabric pieces having a sweatband (3) made from elastic material that is coupled with an elastic band portion, which allows the cap to fit a variety of sizes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Rafowitz et al. by incorporating elastic into the sweat band in order to obtain a headband that will absorb sweat and provide elasticity (Column 3, lines 56 –57).

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 17- 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L. Haney  
Patent Examiner  
Art Unit 3765  
June 20, 2006

RLH

  
JOHN D. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700